

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

SAMMYE A. RICHARDSON, et al.,
Plaintiffs,
vs.
FIRST AMERICAN FIELD SERVICES,
et al.,
Defendants.

No. CIV 04-542-TUC-CKJ

ORDER

Pending before the Court is Defendants Ford and Pima County Assessor's Office's Motion for Reconsideration [Doc. # 75] and Plaintiff's Motion for Additional Time to File Amended Complaint [Doc. # 81]. Also pending before the Court are Defendant Tilton's Motion to Dismiss, [Doc. # 67], Defendants Myers' Motion to Dismiss [Doc. # 70], and Defendants Dedicated Dental's Motion to Dismiss or, in the alternative, Motion for More Definite Statement [Doc. # 73].

Motion for Reconsideration

Defendants Ford and Pima County Assessor's Office have requested this Court to reconsider its December 20, 2004, Order in which the Court dismissed Plaintiffs' First Amended Complaint with leave to amend. Defendants request this Court to reconsider its decision because Plaintiffs were given an opportunity to amend their complaint in CIV 03-549-TUC-FRZ, that complaint was nearly identical as the complaint in this matter, and Plaintiffs were given ample opportunity to correct their mistakes.

(82)

1 The dismissal order in CIV 03-549-TUC-CKJ states that case was dismissed without
2 prejudice. That court did not find that dismissal with prejudice was appropriate. *Nevijel v.*
3 *North Coast Life Ins. Co.*, 651 F.2d 671, 674 (9th Cir1981) (district court may dismiss an
4 action with prejudice due to a litigant's failure to comply with Rule 8(a) if meaningful, less
5 drastic sanctions have been explored); *McHenry v. Renne*, 84 F.3d 1172, 1174-80 (9th
6 Cir.1996). The Court, therefore, does not find the dismissal of CIV 03-549-TUC-FRZ as a
7 basis for a dismissal with prejudice in this matter. The Motion for Reconsideration will be
8 denied.

9
10 *Motion for Additional Time*

11 Plaintiffs have submitted a document entitled "Plaintiff's January 18, 2005 Response
12 to Dec. 20, 2004 Court Order Partially Addressing Local Rule of Removal R. 2.23 with a
13 Formal Request to Allow a 30 Day Count from January 8, 2005 as Opposed to December 20,
14 2005 Due to Ongoing Crime Against Plaintiffs and Related Issues by Plaintiff in Light of
15 Defendant's Ongoing Acts." The Court accepts this document as a Motion for Additional
16 Time to File Amended Complaint. The Court finds it appropriate to allow Plaintiffs
17 additional time to file a Second Amended Complaint. Rule 6(b), Fed.R.Civ.P. The Court
18 advises Plaintiffs that no further requests for additional time to file a Second Amended
19 Complaint will be granted.

20 This pleading also requests permission to file "additional pages." Plaintiffs are
21 advised that, pursuant to the Court's December 20, 2004, the only document to be filed at this
22 time is a Second Amended Complaint. Plaintiffs are further advised that the Complaint shall
23 contain a "short and plain statement of the claim showing that the pleader is entitled to
24 relief." Rule 8, Fed.R.Civ.

25 This pleading also requests the Court to clarify the service rules. Plaintiffs are advised
26 that it is not the role of the Court to provide legal advice to litigants. However, the Court
27 does repeat from its December 20, 2004, Order, that Plaintiffs shall not effectuate service
28

1 upon Defendants until the Court has reviewed any Second Amended Complaint and notifies
2 Plaintiffs that procedural requirements, including allegations to establish subject matter
3 jurisdiction, have been met. Plaintiffs are referred to Rule 4, Fed.R.Civ.P., for service
4 requirements.

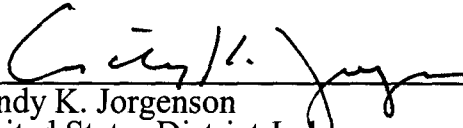
5
6 *Remaining Motions*

7 Defendant Tilton's Motion to Dismiss, Defendants Myers' Motion to Dismiss, and
8 Defendants Dedicated Dental's Motion to Dismiss or, in the alternative, Motion for More
9 Definite Statement were all filed at about the time this Court issued its December 20, 2004,
10 order of dismissal with leave to amend. The Court finds it appropriate to dismiss these
11 motions as moot.

12 Accordingly, IT IS ORDERED:

- 13 1. Defendants Ford and Pima County Assessor's Office's Motion for
14 Reconsideration [Doc. # 75] is DENIED;
- 15 2. Plaintiff's Motion for Additional Time to File Amended Complaint [Doc. # 81]
16 is GRANTED in part;
- 17 3. Plaintiffs shall file any Second Amended Complaint on or before February 11,
18 2005;
- 19 4. Defendant Tilton's Motion to Dismiss [Doc. # 67] is DENIED as moot;
- 20 5. Defendants Myers' Motion to Dismiss [Doc. # 70] is DENIED as moot, and;
- 21 6. Defendants Dedicated Dental's Motion to Dismiss or, in the alternative, Motion
22 for More Definite Statement [Doc. # 73] is DENIED as moot.

23 DATED this 20th day of January, 2005.

24
25
26 
27 Cindy K. Jorgenson
28 United States District Judge